

1 SCOTT N. SCHOOLS (SCSBN 9990)  
2 United States Attorney  
3 JAY R. WEILL (CSBN 75434)  
4 Assistant United States Attorney  
5 Chief, Tax Division  
6 9th Floor Federal Building  
7 450 Golden Gate Avenue, Box 36055  
8 San Francisco, CA 94102  
9 Telephone: (415) 436-7017  
10 Fax: (415) 436-6748  
11 Jay.Weill@usdoj.gov

12 Attorneys for the United States of America

13 **IN THE UNITED STATES DISTRICT COURT FOR THE**  
14 **NORTHERN DISTRICT OF CALIFORNIA**

15 **SAN FRANCISCO DIVISION**

16 **UNITED STATES OF AMERICA and**  
17 **MICHAEL FILICE, Revenue Officer,**

18 **Petitioners,**

19 **v.**

20 **CHUK FU CHOW,**

21 **Respondent.**

22 **ORIGINAL  
FILED**  
23 **MAY 19 2007**  
24 **RICHARD W. WIEKING**  
25 **CLERK, U.S. DISTRICT COURT**  
26 **NORTHERN DISTRICT OF CALIFORNIA**

**E-filing**

**MEJ**

**C 07 2515**

**NO. VERIFIED PETITION TO  
ENFORCE INTERNAL  
REVENUE SERVICE SUMMONS**

27 Petitioners, the **UNITED STATES OF AMERICA** and its Revenue Officer,

28 **MICHAEL FILICE**, allege and petition as follows:

1. This proceeding is brought and this Court has jurisdiction hereof under Sections 7402(b) and 7604(a) of the Internal Revenue Code (26 U.S.C. §§ 7402 and 7604).

2. Petitioner **MICHAEL FILICE** is and at all times mentioned herein was an employee and officer of the Internal Revenue Service of the United States Department of the Treasury authorized by the Secretary of the Treasury to perform the duties and take the actions described in Sections 7602 and 7603 of the Internal Revenue Code (26 U.S.C. §§ 7602 and 7603), under Treasury Regulations §§ 301.7602-1 and 301.7603-1 (26 C.F.R. §§ 301.7602-1 and 301.7603-1).

3. Petitioner **MICHAEL FILICE** is and at all times mentioned herein was attempting in the course of authorized duties to determine and collect certain federal tax

1 liabilities of **CHUK FU CHOW** for the tax year of 2005.

2 4. Petitioner **MICHAEL FILICE** is and at all times herein was attempting in the  
3 course of authorized duties to have respondent produce for inspection, examination and copying  
4 by petitioner certain records possessed by respondent which are relevant and material to attempt  
5 to determine and collect the aforementioned federal tax liabilities of **CHUK FU CHOW**, for the  
6 period stated in paragraph 3 above.

7 5. Respondent **CHUK FU CHOW**'s last known address is 341 San Fernando Way,  
8 San Francisco, CA, 94127 which is within the venue of this Court.

9 6. Petitioner **MICHAEL FILICE** is informed and believes that said respondent is in  
10 possession and control of records, paper and other data regarding income and other matters  
11 covered by said petitioner's inquiry and to which petitioners do not otherwise have access,  
12 possession, or control.

13 7. On March 13, 2007, in accordance with law, petitioner **MICHAEL FILICE**  
14 served a summons on respondent **CHUK FU CHOW** in respect to the subject matter described  
15 in paragraphs 3, 4, and 6 above, by handing an attested copy of the summons to the respondent  
16 **CHUK FU CHOW**. The requirements of said summons are self-explanatory, and a true copy  
17 thereof is attached hereto as Exhibit A and is hereby incorporated by reference as a part of this  
18 petition.

19 8. The items sought by the summons described in paragraph 7 above are relevant to  
20 and can reasonably be expected to assist in the determination and collection of the above-  
21 mentioned federal tax liabilities of **CHUK FU CHOW** for the years stated in paragraph 3 above.  
22 It was and now is essential to completion of petitioner's inquiry regarding the determination and  
23 collection of the above-mentioned federal income tax liabilities of **CHUK FU CHOW** for the  
24 years stated in paragraph 3 above that respondent produce the items demanded by said summons.

25 9. The respondent did not appear on March 26, 2007, as requested in the summons.

26 10. As of the date of this petition, the respondent has failed to comply with the  
27 summons.

28

11. All administrative steps required by the Internal Revenue Code for issuance of the summons have been taken.

12. There has been no referral to the Department of Justice for criminal prosecution of the matters described in the summons.

**WHEREFORE**, having stated in full their petition against the respondent, petitioners pray for enforcement of the subject summons as alleged and set forth above, as follows:

A. That the named respondent herein be ordered to appear and show cause before this Court, if any, why he should not be compelled by this Court under 26 U.S.C. § 7604(a) to give such testimony and to produce such items as are required in the herein above-described summons;

B. That respondent be ordered by the Court to appear before the petitioner **MICHAEL FILICE** or any other designated agent, at a time and place directed by the Court and then and there give such testimony and produce such items as is required by the summons; and

C. That the Court grant the petitioner **UNITED STATES OF AMERICA** its costs in this proceeding and such other and further relief as may be necessary and proper.

SCOTT N. SCHOOLS  
United States Attorney

THOMAS MOORE  
Assistant United States Attorney  
Tax Division



# Summons

In the matter of Chuk Fu Chow dba Tsing Tao Restaurant, 341 San Fernando Way, San Francisco, CA 94127

Internal Revenue Service (Division): Small Business/Self Employed

Industry/Area (name or number): Small Business/Self Employed - California Area

Periods: Quarterly period ended March 31, 2005

## The Commissioner of Internal Revenue

To: Chuk Fu Chow

At: 341 San Fernando Way, San Francisco, CA 94127

You are hereby summoned and required to appear before Michael Filice, an officer of the Internal Revenue Service, and/or his or her designee, to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

All documents in your possession and control reflecting the assets and liabilities of the above named taxpayer(s) including, but not limited to, the following: all bank statements, checkbooks, canceled checks, savings account passbooks, and records of certificates of deposit, for the period October 1, 2006 to date of full compliance with this summons, regarding accounts or assets held in the name of the taxpayer(s) or held for the benefit of the taxpayer(s); all records or documents regarding stocks and bonds, deeds or contracts regarding real property, current registration certificates for motor vehicles, and life or health insurance policies currently in force, any of which items are owned, wholly or partially, by the taxpayer(s), or in which the taxpayer(s) have a security interest, or held for the benefit of either or both of the taxpayer(s), so that a current Collection Information Statement may be prepared. A blank copy of such Collection Information Statement is attached hereto to guide you in the production of the necessary documents and records.

**Do not write in this space**

---

### Business address and telephone number of IRS officer before whom you are to appear:

100 Smith Ranch Road 120, San Rafael, CA 94903, 415-479-0302x220

Place and time for appearance at 100 Smith Ranch Road 120, San Rafael, CA 94903,

on the 26th day of March, 2007 at 9:00 o'clock A.m.

Issued under authority of the Internal Revenue Code this 9<sup>th</sup> day of March, 2007

 IRS  
Department of the Treasury  
Internal Revenue Service  
[www.irs.gov](http://www.irs.gov)  
Form 2039(Rev. 10-2006)  
Catalog Number 21405J

Michael Filice 68-11608

Signature of Issuing Officer

Revenue Officer

Title

Exhibit A

Signature of Approving Officer (if applicable)

Title



# Service of Summons, Notice and Recordkeeper Certificates

(Pursuant to section 7603, Internal Revenue Code)

I certify that I served the summons shown on the front of this form on:

Date	Time
03/13/2007	12:05 PM

1.  I certify that I handed a copy of the summons, which contained the attestation required by § 7603, to the person to whom it was directed.

**How Summons Was Served**

2.  I certify that I left a copy of the summons, which contained the attestation required by § 7603, at the last and usual place of abode of the person to whom it was directed. I left the copy with the following person (if any): \_\_\_\_\_

3.  I certify that I sent a copy of the summons, which contained the attestation required by § 7603, by certified or registered mail to the last known address of the person to whom it was directed, that person being a third-party recordkeeper within the meaning of § 7603(b). I sent the summons to the following address: \_\_\_\_\_

Signature	Title
<i>Michael Filice</i>	<i>Revenue Officer</i>

4. This certificate is made to show compliance with IRC Section 7609. This certificate does not apply to summonses served on any officer or employee of the person to whose liability the summons relates nor to summonses in aid of collection, to determine the identity of a person having a numbered account or similar arrangement, or to	determine whether or not records of the business transactions or affairs of an identified person have been made or kept.
	I certify that, within 3 days of serving the summons, I gave notice (Part D of Form 2039) to the person named below on the date and in the manner indicated.

Date of giving Notice: \_\_\_\_\_ Time: \_\_\_\_\_

Name of Noticee: \_\_\_\_\_

Address of Noticee (if mailed): \_\_\_\_\_

**How Notice Was Given**

<input type="checkbox"/> I gave notice by certified or registered mail to the last known address of the noticee.	<input type="checkbox"/> I gave notice by handing it to the noticee.
<input type="checkbox"/> I left the notice at the last and usual place of abode of the noticee. I left the copy with the following person (if any).	<input type="checkbox"/> In the absence of a last known address of the noticee, I left the notice with the person summonsed.
	<input checked="" type="checkbox"/> No notice is required.

Signature	Title

I certify that the period prescribed for beginning a proceeding to quash this summons has expired and that no such proceeding was instituted or that the noticee consents to the examination.

Signature	Title

## VERIFICATION

I, MICHAEL FILICE, pursuant to 28 U.S.C. § 1746, declare and state as follows:

I am a duly employed Revenue Officer in the San Rafael, California office of the Internal Revenue Service of the United States Treasury Department. I am one of the petitioners making the foregoing petition. I have read and know the entire contents of the foregoing petition, and all statements of fact contained in said petition are true to the best of my own personal knowledge and recollection, and as to those facts stated upon information and belief, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_ at San Rafael, California.

MICHAEL FILICE

### VERIFICATION

I, MICHAEL FILICE, pursuant to 28 U.S.C. § 1746, declare and state as follows:

I am a duly employed Revenue Officer in the San Rafael, California office of the Internal Revenue Service of the United States Treasury Department. I am one of the petitioners making the foregoing petition. I have read and know the entire contents of the foregoing petition, and all statements of fact contained in said petition are true to the best of my own personal knowledge and recollection, and as to those facts stated upon information and belief, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Precinct on May 9, 2007 at San Rafael, California.

Michael Filice  
**MICHAEL FILICE**